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State of Utah
DEPARTMENT OF NATURAL RESOURCES
Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

JUN 13 2012

ORDER OF THE STATE ENGINEER
For Permanent Change Application Number 73-2289 (a38049)

Permanent Change Application Number 73-2289 (a38049) in the name of Mountain View Special Service District, was filed on March 27, 2012, to add a point of diversion for 100.00 acre-feet (af) of water as evidenced by Water Right Number 73-2289. Heretofore, the water has been diverted from a well located South 66 feet and East 2699 feet from the W¹/₄ Corner of Section 3, T36S, R12W, SLB&M (existing 8-inch well, 517 feet deep). The water is used for municipal purposes within the service area of Mountain View Special Service District.

Hereafter, it is proposed to divert 100.00 acre-feet of water from the same point as heretofore and from an additional a well located North 2170 feet and East 2233 feet from the SW Corner of Section 3, T36S, R12W, SLB&M (8-inch well, 100-600 feet deep). The nature and place of use of the water will remain the same as heretofore.

Notice of the application was published in The Spectrum on April 12 and 19, 2012. No protests were received.

It is the opinion of the State Engineer that this change application can be approved without adversely affecting existing rights. The applicant is put on notice that diligence must be shown in pursuing the development of this application which can be demonstrated by the completion of the project as proposed in the change application.

It is, therefore, **ORDERED** and Permanent Change Application Number 73-2289 (a38049) is hereby **APPROVED** subject to prior rights and the following conditions:

1. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to nor use of land or facilities not owned by the applicant.
2. As noted, this approval is granted subject to prior rights. The applicant shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among the parties or decreed by a court of competent jurisdiction.
3. Water use under this approval shall be limited to the diversion 100.00 acre-feet for municipal use.

4. The applicant and successor(s) shall maintain a permanent record of all water diverted under this application, said record to be made available for inspection by personnel of the Division of Water Rights upon reasonable request. **An annual report of all water diversions under this approval shall be submitted to the Division of Water Rights.**
5. The documents submitted as proof of beneficial use for this application, as required by statute at §73-3-16, Utah Code Annotated, shall include a full and correct copy of the metering record maintained as required herein.

If historical resources such as human remains (skeletons), prehistoric arrowheads/spear points, waste flakes from stone tool production, pottery, ancient fire pits, historical building foundations/remains, artifacts (glass, ceramic, metal, etc.) are found during construction, call the Utah Division of State History at 801-533-3555.

The State Engineer has statutory responsibility to create and maintain water right records based on an administrative process outlined in statute. The State Engineer is not authorized by statute to adjudicate water right title or the validity of established water rights. It is noted that failure to exercise a water right within the statutory period could render all or a portion of a water right invalid through forfeiture. Parties who wish to challenge the validity of a water right are advised that a declaration of forfeiture is a judicial action and the courts are available to pursue such suits. (UCA 73-1-4).

The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before **June 30, 2017**, or a request for extension of time must be acceptably filed; otherwise the application will be lapsed.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses, and extent of your water right. Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicant must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights which may be approved to be diverted from those sources.

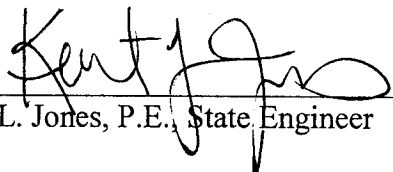
Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this permanent change application.

It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.

Your contact with this office, should you need it, is with the Southwestern Regional Office. The telephone number is 435-586-4231.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 13th day of June, 2012.


Kent L. Jones, P.E., State Engineer

Mailed a copy of the foregoing Order this 13th day of June, 2012 to:

Mountain View Special Service District
PO Box 1202
Cedar City, UT 84721-1202

Division of Water Rights
Water Use Program

BY: 
Sonia R. Nava, Applications/Records Secretary